IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Laxmi Lal & Ors. Vs. State of Raj. & Anr.

S.B.CR.MISC. PETITION NO.345/2004

against the order dt.25.2.2004 passed by Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Udaipur in Cr.Revision Pet. No.15/2003

DATE OF ORDER :: July 25, 2006

PRESENT

HON'BLE MR.H.R.PANWAR,J.

Mr. Pradeep Shah, for the petitioners.

Mr.Ashok Upadhyaya, P.P.
Mr. Anil Kavi Raj, for non-petitioner No2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioners have challenged the order dt. 25.2.2004 passed by Special Judge, S.C./S.T. (Prevention of Atrocities) Act Cases, Udaipur (for short 'the revisional court' hereinafter) in Cr.Revision No.15/2003, whereby the revision petition filed by the petitioner against the order dt. 16.2.2002 passed by Judicial

Magistrate No.2 (South), Udaipur (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the revisional court as well as by the trial court.

Both the courts below concurrently found that there is prima facie evidence and the grounds to presume that the petitioners have committed offence punishable under section 494 and 494/109 I.P.C. The order framing charge passed by the trial court runs into four pages and every material has been taken into consideration, so as the case of the revisional court. By an elaborate order, the revisional court also came to the conclusion that prima facie there is a ground to presume that the petitioners have committed offence. The contention of the petitioner before both the courts below is that marriage ceremony has not been established. So far as ceremony of contacting second marriage is concerned, it is be established by the evidence, which is yet to be led by the parties. At the stage of charge, on the basis of material prime facie if the court satisfies that there is a ground to presume that the petitioners have committed offence, the court is obliged to frame the charge in view of the decision of Hon'ble Supreme Court in State of

Delhi Vs. Gyan Devi & ors., **JT 2000 (Suppl.2) SC 635**, wherein the Hon'ble Supreme Court held that at the stage of framing of charge, the trial court is not to examine and assess in detail the material placed on record by prosecution nor it is for the court to consider the sufficiency of the material to establish the offence alleged against the accused persons. The Court further held that at the stage of framing the charge, the court is to examine the material only with a view to be satisfied that prima facie a case of commission of offence alleged is made out against the accused. It was further held by the Hon'ble Apex Court that the High Court's power to quash the charge should not be exercised except for strong reasons like interest of justice and avoiding abuse of process of the Court.

Thus, it cannot be said that the order impugned would result in serious miscarriage of justice. It is settled law that inherent powers under section 482 Cr.P.C. are to be exercised sparingly or in exceptional cases. The case in hand is not of that nature.

Consequently, the petition is dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

m.asif/-